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--Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

MARY L. DEVERA, as Personal Representative of the Estate of Trent Vigus, deceased, Plaintiff, v. EXXON MOBIL CORPORATION and XTO ENERGY, INC., Defendants.	Cause No. _____ COMPLAINT AND DEMAND FOR JURY TRIAL
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Mary L. DeVera, as Personal Representative of the Estate of Trent Vigus, deceased,
states and alleges as follows:

THE PARTIES

1. Mary L. DeVera is the Personal Representative of the Estate of Trent Vigus, deceased, having been appointed by the Seventh Judicial District Court, Dawson County, Montana.

2. Defendant Exxon Mobil Corporation is a New Jersey Corporation. Defendant XTO Energy, Inc., is a subsidiary of Defendant Exxon Mobil Corporation.

3. Defendant XTO Energy is a Delaware corporation, engaged in exploration, drilling, and production within the State of Montana.

JURISDICTION

4. Jurisdiction in this Court is proper pursuant to 28 USC § 1332(a) because of the diversity of citizenship between Plaintiff and the Defendants and because the amount in controversy exceeds the jurisdictional minimum of \$75,000, exclusive of interest and costs.

NEGLIGENCE

5. Defendant XTO Energy is engaged in exploration, drilling, and production within the State of Montana. At the time of the events herein, XTO Energy maintained a regional office in Sidney, Montana.

6. Trent Vigus was born on May 30, 1980, and was a resident of Sidney, Montana. At the time of his death, Trent was living with his common-law wife, Emma Jane Fischer, and the couple was expecting a child. The child, Trent Vigus, Jr., was born on November 22, 2010.

7. Decedent Trent Vigus was working for Nabor's Industries, LLC, a Texas corporation which provided services to Defendant XTO on a contract basis. On July 9, 2010, Trent Vigus was engaged in his job duties at a recently opened oil and gas well in Richland County, Montana, known as Eugene 14X-8. API #25-083-22827 (hereinafter "the XTO well").

8. The well and the equipment used for oil collection, processing, storage, and delivery were owned and under the control of XTO at all times material hereto.

9. Frac wells have been known to produce dangerous concentrations of toxic gases in the collection and storage tanks. Inhaling these substances can cause death.

10. On July 9, 2010, Trent Vigus was working at the XTO well performing his duties which included manual gauging of oil tanks. A coworker found Vigus's lifeless body slumped over the open hatch of the oil storage tank.

11. XTO knew or should have known that exposures to high concentrations of hydrocarbon gases and vapors and oxygen-deficient atmospheres during manual tank gauging and sampling poses a risk for sudden death.

12. XTO owed a duty to maintain its equipment and facilities in a condition that was not unreasonably dangerous to persons in the vicinity of said equipment.

13. XTO had a duty to test and monitor the XTO well for conditions which could cause harm or death to workers in the vicinity.

14. XTO had a duty to warn invitees, including workers employed by subcontractors of latent dangerous conditions on its property, and to ensure that conditions were safe for invitees.

15. XTO had a duty to take precaution to prevent sudden death to persons opening hatches on its oil tanks, and to ensure that all employers performing work on the XTO well to take similar precautions.

16. XTO was negligent in its operation of the oil well, equipment, tanks, and operating procedures.

17. XTO was under a heightened duty of care in inspection, monitoring and ensuring safety of its equipment at the XTO well, due to the known risks of ultra-hazardous, deadly vapors at recently opened wells in the oilfields in Montana where XTO does business. XTO negligently breached this duty.

18. As a direct result of the negligence of defendant XTO, Trent Vigus was exposed to deadly gases which caused his death.

19. Emma Vigus and her infant son Trent Vigus, Jr., were estranged from the family of Trent Vigus, Sr., after his death and had no contact with them for years. During this time period, Emma understood that the Coroner for the State of Montana determined that Trent died from natural causes, a heart attack. In April 2016, Emma read about another similar oil well thief hatch death, and at that time came to believe that Trent did not die of a heart attack but rather was killed by poisonous gas. The wrongful death statute of limitations was tolled for Emma Vigus and infant Trent Vigus, Jr., during the period of time that Emma believed that Trent Vigus died from natural causes. The facts constituting the claim were by their nature concealed or self-concealing.

20. The wrongful death statute of limitations is further tolled for Trent Vigus, Jr., pursuant to 27-2-401(1), MCA, due to his minority.

21. As a direct result of the wrongful death of Trent Vigus, his widow, young son, and his heirs have suffered economic and non-economic damages, for which the personal representative is seeking recovery.

PUNITIVE DAMAGES

22. Defendants had knowledge of facts or intentionally disregarded facts that created a high probability of injury to Trent Vigus, and deliberately proceeded to act in conscious disregard and indifference to the high probability of injury to Trent Vigus.

23. Plaintiff, as Personal Representative, is entitled to collect such exemplary damages which under all the circumstances of the case may be just.

WHEREFORE, Plaintiff prays for such damages as under all the circumstances of the case may be just.

DEMAND FOR JURY TRIAL

Plaintiff requests trial by jury of all issues so triable.

DATED this 21st day of December, 2017.

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